

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MASSACHUSETTS

\* \* \* \* \* 16CR10305-NMG  
UNITED STATES OF AMERICA \*  
VS. \* JULY 6, 2018  
\* 2:33 P.M.  
MARTIN GOTTESFELD \*  
\* \* \* \* \* BOSTON, MA

BEFORE THE HONORABLE NATHANIEL M. GORTON  
DISTRICT JUDGE  
(Motion Hearing)

**APPEARANCES:**

FOR THE GOVERNMENT: DAVID J. D'ADDIO, AUSA  
United States Attorney's Office  
1 Courthouse Way  
Suite 9200  
Boston, MA 02210

FOR THE DEFENDANT: DAVID J. GRIMALDI, ESQ.  
David J. Grimaldi, P.C.  
9th Floor  
675 Massachusetts Avenue  
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Court Reporter: Debra D. Lajoie, RPR-FCRR-CRI-RMR  
1 Courthouse Way  
Boston, MA 02210

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1 6 JULY 2018 -- 2:33 P.M.

2 THE CLERK: This is Criminal Action  
3 No. 16-10305, the United States of America v.  
4 Martin Gottesfeld.

5 Will counsel please identify themselves for the  
6 record.

7 MR. D'ADDIO: Good afternoon, Your Honor.  
8 David D'Addio for the United States.

9 THE COURT: Good afternoon, Mr. D'Addio.

10 MR. GRIMALDI: Good afternoon, Your Honor.  
11 David Grimaldi for Mr. Gottesfeld who is present.

12 THE COURT: Mr. Grimaldi, Mr. Gottesfeld, good  
13 afternoon to you.

14 We are here on Attorney Grimaldi's motion to  
15 withdraw as counsel. This is Docket No. 214.

16 The Court notes this is Attorney Grimaldi's  
17 second motion to withdraw, and it is actually the sixth  
18 time this Court has considered a motion to withdraw  
19 filed by defense counsel in this case.

20 The Court also understands that the Defendant  
21 does not assent to his counsel's motion. As a  
22 reminder, jury impanelment is scheduled to begin in  
23 this case two weeks from yesterday; that is, Thursday,  
24 July 19th, 2018, so this latest motion will be decided  
25 forthwith today.

1 I am going to want to confer with Defendant and  
2 his current counsel ex parte on the motion to withdraw  
3 before proceeding further, so I would ask Government's  
4 counsel to exit the courtroom.

5 But before you do, does the Government have a  
6 position on the Defendant's motion?

7 MR. D'ADDIO: Your Honor, our principal concern  
8 is maintaining the trial date. Beyond that, we take no  
9 position on the motion.

10 THE COURT: All right. Then I am going to have  
11 to conduct an ex parte conference with defense counsel  
12 and Defendant, so anybody not associated directly with  
13 the Defendant will need to withdraw.

14 MR. D'ADDIO: Thank you, Your Honor.

15 THE COURT: And the record will reflect that  
16 Government's counsel and a bevy of individuals have  
17 left.

18 Mr. Grimaldi, do you know who is left in the  
19 Courtroom?

20 MR. GRIMALDI: I do see Mr. Gottesfeld's wife,  
21 Dana Gottesfeld, here in the courtroom. I do see two  
22 other gentlemen sitting to the right-hand side of the  
23 room, one next to Ms. Gottesfeld and one two rows up.  
24 I do not know who they are.

25 THE COURT: All right. Might I inquire as to

1 the identification of the two gentlemen in the back of  
2 the courtroom?

3 MR. HIGGINS: My name's Owen Higgins. I'm a  
4 reporter working on a story with Dana and Martin.

5 THE COURT: What's the position of you,  
6 Mr. Grimaldi, with respect to his attendance?

7 MR. GRIMALDI: Well, I should note that  
8 Mr. Gottesfeld asked me to object to your order  
9 excluding both the Government and other members of the  
10 public from this hearing.

11 However, I assent to the Court's -- I personally  
12 assent to the Court's order. There's a difference as  
13 it relates to Mr. Gottesfeld's individual position and  
14 my position, but right before Your Honor took the bench  
15 here today, he asked me to note that, his own personal  
16 objection, so I am doing that.

17 I would ask that all people, including  
18 Ms. Gottesfeld, as well as the two individuals, the two  
19 men here in the courtroom, be removed from the  
20 courtroom pending Your Honor's --

21 THE COURT: Okay. Who's the other gentleman,  
22 sir?

23 THE MARSHAL: Sorry. Your Honor, US Marshals.

24 THE COURT: Oh, all right. US Marshals.

25 Well, I'm going to ask the gentleman who is with

1 the media to step out. I'm not going to require  
2 Mrs. Gottesfeld to exit because I think what I have to  
3 say is pertinent to her, but I would ask the reporter  
4 if he would please step out. We will notify you as  
5 soon as the others are able to come back in.

6 All right. Now the record will reflect that,  
7 other than the US Marshals, only the Defendant,  
8 Mr. Gottesfeld, and his wife, who I believe is  
9 Dana Gottesfeld, remain in the courtroom with  
10 Attorney Grimaldi.

11 Mr. Grimaldi, the motion is yours. I will hear  
12 you first, and then I will allow Mr. Gottesfeld to  
13 speak.

14 MR. GRIMALDI: First, Your Honor, I fully  
15 acknowledge that I am, I believe, the fifth lawyer in  
16 this case. Mr. Gottesfeld was first represented by  
17 Mr. Tor Ekeland, then by Attorney Jane Peachy of the  
18 Federal Defender's Office, Timothy Watkins of the  
19 Federal Defender's Office and Attorney Raymond  
20 Gillespie. I believe that an associate of Mr. Ekeland  
21 also filed an appearance in the case, but Mr. Ekeland  
22 was the lawyer in this instance.

23 So I understand that history, and I also  
24 understand the history that you recited, Your Honor,  
25 that this is my second motion to withdraw and the sixth

1 motion overall.

2 As it relates to the first motion to withdraw  
3 filed by myself, that was at Mr. Gottesfeld's request.  
4 It was just a few weeks ago. It was not something that  
5 I intended to file. I did not want to file it, but he  
6 asked me to file it, and he asked me also to attach the  
7 exhibit that was attached to that motion. So, in a  
8 sense, while I literally filed it, it was  
9 Mr. Gottesfeld's motion in that regard.

10 And also I'd just note that of course, before I  
11 represented Mr. Gottesfeld, I had no -- well, the prior  
12 motions of counsel, of my predecessor counsel, they  
13 might have their own reasons, but of course my reasons  
14 are separate and apart for moving to withdraw in this  
15 case.

16 I want to be careful here. I do not want to  
17 disclose more than I need to disclose to you,  
18 Your Honor.

19 THE COURT: Nor do I want to hear it.

20 MR. GRIMALDI: Yes, right. So I attached four  
21 exhibits --

22 THE COURT: Yes.

23 MR. GRIMALDI: -- and Mr. Gottesfeld has been  
24 apprised as to what they are, so he knows what they  
25 are. And those exhibits, just so the record here is

1 clear, Exhibit A is a posting on what's called a  
2 Rip-off Report, Rip-off as if you're being -- you're a  
3 victim of theft, Rip-off Report; Exhibit B is  
4 Mr. Gottesfeld's own website, [www.freemartyg.com](http://www.freemartyg.com);  
5 Exhibit C I believe is the [pastebin.com](http://pastebin.com) posting in the  
6 name of Mr. Gottesfeld; and Exhibit D is the Twitter  
7 posting. I think I have those orders right.

8 So this first came to my attention when I looked  
9 at Mr. Gottesfeld's personal page and noticed something  
10 I had not seen before, which was a retweet, in the  
11 parlance of our times, of a posting in the name of a  
12 Twitter account, "Beware David Grimaldi." Of course I  
13 am David Grimaldi. And when I clicked on that retweet  
14 on Mr. Gottesfeld's own page, I was brought to a  
15 Twitter account that I have every reason to believe was  
16 created at the request of Mr. Gottesfeld, perhaps with  
17 the assistance of his wife who's here in this room,  
18 although I don't know that to be true.

19 And if I might, the website posting  
20 [freemartyg.com](http://freemartyg.com) has a narrative that says,  
21 "Attorney Grimaldi's refusing to move for recusal of  
22 Marty's Judge even though Marty's Judge has a \$50,000  
23 conflict of interest. Marty fact-checks the reasons  
24 provided to him by Attorney Grimaldi for his lack of  
25 action."

1           Going to the tweet, Your Honor, it links to  
2 various things, including the pastebin account where  
3 there's a further recitation of Mr. Gottesfeld's  
4 alleged grievances against me as well as a link to a  
5 Dilbert cartoon by the cartoonist Scott Adams, a  
6 well-known cartoonist, essentially I think trying to  
7 mock my discussions with Mr. Gottesfeld, although I  
8 don't quite agree with it.

9           And then of course this Rip-off Report. What I  
10 think is most telling here is the Rip-off Report, so  
11 I'll go directly to that. That report was posted, by  
12 its own account, on June 26, 2018. It was reported by  
13 "freemartyg" of Somerville, Massachusetts. It lists  
14 the name of my law firm, of which I am the only member,  
15 David J. Grimaldi, PC; it lists my business address, my  
16 business number, my website link,  
17 [www.attorneygrimaldi.com](http://www.attorneygrimaldi.com); it lists a category of  
18 complaints, lawyers or lawyer complaints, and the title  
19 of it is, "David J. Grimaldi, PC, tried to pressure me  
20 into a plea and refuses to make key oral arguments and  
21 motions to defend me in Cambridge, Massachusetts."

22           And then when you read that, Your Honor, and I  
23 assume that you have already, but Mr. Gottesfeld makes  
24 a series of accusations against me. First, he  
25 describes what he calls the high-profile nature of his



1 case and lists a number of links that relate to his  
2 case. But the text of the report says, "This is a  
3 warning to other defendants in Massachusetts  
4 regarding Attorney David J. Grimaldi. My name is  
5 Martin Gottesfeld, and I am an imprisoned human rights  
6 activist who advocates for abused children. I guess  
7 you could call me a high-profile Defendant, which is a  
8 relevant and important part of this warning." Then he  
9 lists a series of publications that have discussed his  
10 case.

11 Then he says, "David J. Grimaldi is my lawyer,  
12 and he has recently tried to pressure me into taking a  
13 plea agreement even though I have done nothing wrong.  
14 He has apparently explored trying using my wife as  
15 leverage to induce me to plea, but she wouldn't help  
16 him. He refused to make a key oral argument which I  
17 wanted him to make and which I insisted upon as best as  
18 I could. I believe that, as a direct result" -- and it  
19 has a picture of me, Your Honor -- "I believe that, as  
20 a direct result, I remain incarcerated while  
21 Mr. Grimaldi continues getting paid to 'defend' me, but  
22 now that I am refusing to plea, he's refusing to do his  
23 job and stand up for me.

24 "He refuses, amongst other things, to move for  
25 the recusal of a judge who has a \$50,000 conflict of

1 interest. Mr. Grimaldi similarly refuses to file a  
2 motion pointing out this judge has made a contradictory  
3 ruling, denying me same rights another defendant in the  
4 very same court.

5 "Mr. Grimaldi no longer seems like my lawyer, if  
6 he ever truly was. Mr. Grimaldi appears to work more  
7 diligently to help convicted child predators than he  
8 does for me. I highly recommend that, if he gets  
9 assigned to your case, that you fire him. I doubt the  
10 authenticity of his Avvo reviews" -- Avvo is spelled  
11 A-v-v-o -- "and I fear that he may be working for feds,  
12 which happens more than you may think."

13 Then there is a website link to an article from  
14 Ohio.com describing a situation -- I have a copy of  
15 that article, if you haven't looked at it,  
16 Your Honor -- in which a criminal defense attorney  
17 essentially turned on his own clients and worked with  
18 the Government to help convict them as a cooperating  
19 witness.

20 Through these series of publications,  
21 Mr. Gottesfeld attacks me, attacks my practice, he  
22 attacks my livelihood. I am a sole practitioner; I am  
23 not a large law firm that can withstand -- well, I am a  
24 sole practitioner. This is my business. He  
25 misrepresents things that have happened between us; he

1       smears me by suggesting, for example, that I've  
2       violated ethical rules by fabricating or otherwise  
3       manufacturing reviews on Avvo.com, which is a lawyer  
4       referral website where prior clients might list --  
5       describe their experience with their lawyer and offer a  
6       rating. And, candidly, I have a good rating with Avvo.  
7       And Mr. Gottesfeld is attempting to smear me and  
8       alleges those are fabricated reviews.

9               He of course alleges that I pressured him to  
10       plead guilty. In such a serious case, I have talked  
11       about pleas with Mr. Gottesfeld as little as almost any  
12       case. He seems not to be interested. I barely talk  
13       about the topic. I mean, I can defend myself against  
14       these charges, but I don't feel that I need to.

15              I know that there's a history here, and I know  
16       that Mr. Gottesfeld has -- that there's a history in  
17       this case and that it's not always been easy for him,  
18       for him, but for others too. I have done my best to  
19       represent him. I've done my best to do right by him.  
20       I have filed motions; and, as you know, Your Honor, I  
21       asked more time for this trial, I asked more time for  
22       various things, I didn't always get it, but I  
23       absolutely have done my best to represent him.

24              And we haven't always agreed. Sometimes we did,  
25       sometimes we did; sometimes we didn't. We haven't

1 always agreed, but now he's attacking me, he's  
2 attacking my livelihood, he's attacking my business. I  
3 think there were several grounds on which I could move  
4 to withdraw. I can enumerate them for you if you'd  
5 like.

6 But I do not believe I can effectively represent  
7 him anymore. It's not something I want to do. I've  
8 represented clients where we haven't always agreed.  
9 I've represented clients who were of their own  
10 opinions. I've represented clients who -- where  
11 there's been challenges, but this is too much. This is  
12 too much. I can't tell you that, after what's  
13 happened, not before, but now, that I can adequately  
14 represent him.

15 I can say a lot more, but I'm really trying to  
16 be restrained. I've recited what's in the papers I  
17 submitted to you. There's actually more information  
18 published online. I don't think I need to say more, so  
19 unless you have further inquiry, Your Honor, I won't  
20 say more.

21 THE COURT: Thank you, Mr. Grimaldi.

22 I will allow Mr. Gottesfeld to comment if he  
23 wishes to.

24 THE DEFENDANT: I stand by everything that is in  
25 that pastebin post and in those posts. I think it very

1 clearly expresses an opinion, rather than a matter of  
2 fact, which I'm entitled to express under the  
3 First Amendment.

4 Unlike prior counsel, diligent search for  
5 conflicts of interest on the part of Mr. Grimaldi has  
6 not turned up any. I have similarly asked him to  
7 search for conflicts of interest. He has not found  
8 any, so I am unable to ask for a replacement counsel on  
9 the basis of any known conflict of interest.

10 I am left with only the First Amendment to voice  
11 my concerns about the handling of my case. I am not  
12 allowed to file letter non-motions on the docket  
13 anymore. I did not want a new lawyer. I do not want  
14 more delay. I wish to proceed to trial. And, as far  
15 as I'm concerned, the behavior that Mr. Grimaldi has  
16 expressed here is all protected speech.

17 THE COURT: Do you want to defend yourself in  
18 this case?

19 THE DEFENDANT: No, I do not, Your Honor, wish  
20 to waive my right to effective assistance of counsel.

21 THE COURT: Anything else, Mr. Grimaldi?

22 MR. GRIMALDI: Again, there is more that I could  
23 say, but I think that I've said enough to justify my  
24 motion and my request, so I won't.

25 THE COURT: All right. Before the Government

1 returns, I will say this: I am going to deny your  
2 motion, Mr. Grimaldi. You are duty-bound to continue  
3 your representation as a member of this District's CJA  
4 panel, and I do not find that an irreparable breakdown  
5 has occurred.

6 I will say that, as far as the Court can say  
7 from this vintage point, that you have diligently  
8 represented your client to the best of your ability and  
9 that you have been zealous in your defense of your  
10 client, notwithstanding the statements made about you  
11 on the internet by your client.

12 Mr. Gottesfeld, it behooves you to do everything  
13 you can to maintain a working relationship with  
14 Mr. Grimaldi because trial is quickly approaching. I  
15 strongly advise you to raise any disagreements of  
16 strategy solely with your attorney, Mr. Grimaldi,  
17 rather than in the internet world and note that, if you  
18 persist in publishing those discussions with  
19 Attorney Grimaldi, you are exposing privileged  
20 attorney-client communications.

21 With that, I will recall the Government's  
22 counsel and anybody else who wishes to enter the  
23 courtroom. Would you please do that, Court Security  
24 Officer.

25 All right. The record will reflect that those

1 who have been in attendance earlier in the proceeding  
2 have been invited to come back into the courtroom and  
3 have returned.

4 This Court denies Attorney Grimaldi's motion to  
5 withdraw, but the Court warns Mr. Gottesfeld that, if  
6 you and/or those acting on your behalf -- and I refer  
7 specifically to your wife, Dana Gottesfeld -- persist  
8 in the internet or telephonic conduct recently  
9 displayed, you and/or she may find yourselves subject  
10 to an independent prosecution for obstruction of  
11 justice under Title 18 of the United States Code,  
12 Section 1503, and if you don't know what that says, I  
13 commend it to your reading. This case is going to be  
14 resolved one way or the other within the next month, so  
15 I would urge you to avoid any similar activities in the  
16 meantime.

17 I understand motions in limine have been filed.  
18 As a reminder, oppositions to those motions, lists of  
19 witnesses and exhibits and requests for jury  
20 instructions are to be filed on or before Monday,  
21 July 9th, 2018. We will convene here for a final  
22 pretrial conference on Tuesday, July 17th, 2018, at  
23 3:00 p.m. Impanelment of the jury will start on  
24 Thursday, July 19th, 2018, and the trial will begin on  
25 Monday, July 23rd, 2018.

1           Is there any further business to come before the  
2 Court in these proceedings?

3           MR. GRIMALDI: No.

4           THE COURT: Mr. Grimaldi?

5           MR. GRIMALDI: No, Your Honor.

6           THE COURT: Mr. D'Addio?

7           MR. D'ADDIO: No, Your Honor. Thank you.

8           THE COURT: We're adjourned.

9           THE CLERK: All rise. The Defendant is  
10 remanded.

11           (Adjourned, 2:55 p.m.)  
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C E R T I F I C A T I O N

I, Debra D. Lajoie, RPR-FCRR-CRI-RMR, do  
hereby certify that the foregoing pages are a true and  
accurate transcription of my stenographic notes in the  
above-entitled case.

/s/ Debra D. Lajoie

11/15/19